

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FACEBOOK, INC.,) C-08-05780 LHK LHK
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) MAY 1, 2013
)
POWER VENTURES, INC. A CAYMAN) PAGES 1-26
ISLAND CORPORATION; STEVE)
VACHANI, AN INDIVIDUAL; DOE 1)
D/B/A POWER.COM, DOES 2-25,)
INCLUSIVE,)
)
DEFENDANTS.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE LUCY H. KOH
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: ORRICK, HERRINGTON & SUTCLIFFE
BY: I. NEEL CHATTERJEE
MONTE F. COOPER
1000 MARSH ROAD
MENLO PARK, CALIFORNIA 94025

FOR THE DEFENDANT: AROPLEX LEGAL SERVICES
BY: AMY S. ANDERSON
156 2ND STREET
SAN FRANCISCO, CALIFORNIA 94105

PRESENT BY PHONE: STEVEN S. VACHANI

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 SAN JOSE, CALIFORNIA

MAY 1, 2013

2 P R O C E E D I N G S

3 (COURT CONVENED AND THE FOLLOWING PROCEEDINGS WERE HELD:)

4 THE CLERK: CALLING CASE NUMBER C-08-05780 LHK,
5 FACEBOOK INCORPORATED VERSUS POWER VENTURES, INCORPORATED.

6 MR. CHATTERJEE: GOOD AFTERNOON, YOUR HONOR.

7 NEEL CHATTERJEE AND MONTY COOPER HERE FOR FACEBOOK.

8 THE COURT: OKAY. GOOD AFTERNOON.

9 MS. ANDERSON: GOOD AFTERNOON, YOUR HONOR.

10 AMY ANDERSON HERE FOR POWER VENTURES, INC.

11 THE COURT: OKAY. GOOD AFTERNOON.

12 AND I BELIEVE THAT --

13 MR. VACHANI: HELLO?

14 THE COURT: GO AHEAD.

15 MR. VACHANI: YES, THIS IS STEVE VACHANI REPRESENTING
16 MYSELF AS DEFENDANT ON THE TELEPHONE.

17 THE COURT: OKAY. OKAY. WELL, WELCOME. WE HAVE A
18 LOT OF ISSUES TO COVER.

19 LET ME FIRST HEAR, WHAT IS THE STATUS OF FACEBOOK'S MOTION
20 TO DISMISS MR. VACHANI'S CHAPTER 13 BANKRUPTCY? IS THAT SET
21 FOR A HEARING? ARE YOU EXPECTING A DECISION AT ANY POINT?

22 MR. CHATTERJEE: YOUR HONOR, I DON'T KNOW IF
23 THERE'S -- I'LL LET MR. VACHANI ANSWER FIRST.

24 THE COURT: OKAY.

25 MR. VACHANI: YES. AS OF NOW, THE JUDGE HAS

1 INDICATED THAT HE WOULD LIKE TO FIRST UNDERSTAND WHERE WE STAND
2 ON LIABILITY AND POTENTIAL DAMAGES, SO IT'S BASICALLY BEEN
3 EXTENDED AS FAR AS I UNDERSTAND IT, AND THEN LATER -- THE NEXT
4 DATE IS IN, I THINK, MAY 21ST. AND OBVIOUSLY THE JUDGE IS JUST
5 WAITING FOR MORE INFORMATION FROM THE CIVIL CASE.

6 THE COURT: OKAY. ALL RIGHT.

7 WELL, WHAT I INTEND TO DO -- I WAS, FRANKLY, CONFUSED BY
8 MR. VACHANI'S MOTION FOR CLARIFICATION REGARDING THE STATUS OF
9 LIABILITY.

10 MY SENSE FROM READING JUDGE WARE'S ORDER GRANTING SUMMARY
11 JUDGMENT IN FACEBOOK'S FAVOR, THE DAMAGES AMOUNT HAS NEVER BEEN
12 AGREED UPON -- OR RULED UPON BY THE COURT AND MR. VACHANI'S
13 PERSONAL JOINT AND SEVERAL LIABILITY WITH POWER VENTURES HAS
14 NEVER BEEN DETERMINED.

15 IS THAT CORRECT?

16 MR. CHATTERJEE: YOUR HONOR, YES, I THINK THAT'S
17 RIGHT. THE -- THERE'S TWO ISSUES THAT I THINK HAVE CREATED A
18 LITTLE BIT OF CONFUSION.

19 ON THE FIRST ISSUE, IN THE SUMMARY JUDGMENT ORDER,
20 JUDGE WARE ASKED FOR SUPPLEMENTAL BRIEFING --

21 THE COURT: UM-HUM.

22 MR. CHATTERJEE: -- ON TWO ISSUES: THE ISSUE OF
23 MR. VACHANI'S PERSONAL LIABILITY; AND THE QUANTIFICATION OF THE
24 RIGHT AMOUNT OF DAMAGES.

25 THE COURT: UM-HUM.

1 MR. CHATTERJEE: FOLLOWING THAT -- WE MAY HAVE SOME
2 BRIEFING ON INJUNCTIVE RELIEF AND THINGS LIKE THAT, BUT THOSE
3 ARE THE TWO ISSUES THAT REMAIN.

4 THE COURT: OKAY.

5 MR. CHATTERJEE: SUBSEQUENT TO THAT, THERE WAS ALL OF
6 THIS PROCEDURAL COMPLEXITY AROUND THE LAW FIRM'S WITHDRAWAL AND
7 THE STRIKING OF THE ANSWER --

8 THE COURT: UM-HUM.

9 MR. CHATTERJEE: -- AND THE ENTRY OF A DEFAULT.
10 AND IN THAT ORDER, THE JUDGE ONLY REFERRED TO THE DAMAGES
11 AMOUNT, BUT DIDN'T TALK ABOUT MR. VACHANI'S PERSONAL LIABILITY.
12 I THINK THERE WAS SOME CONFUSION AROUND THAT.

13 HOWEVER, I THINK IT'S FAIR TO SAY THAT THE SUBMITTED ISSUE
14 THAT'S BEFORE JUDGE WARE DEALS WITH THOSE TWO ISSUES:
15 MR. VACHANI'S PERSONAL LIABILITY; AND THE QUANTIFICATION OF
16 DAMAGES.

17 THE COURT: OKAY. WELL, I'M GOING TO DENY THE MOTION
18 FOR CLARIFICATION. I DON'T BELIEVE THAT THERE HAS BEEN
19 ESSENTIALLY ANY CHANGE SINCE JUDGE WARE'S FEBRUARY 16TH, 2012
20 SUMMARY JUDGMENT ORDER.

21 SO MR. VACHANI, WHAT YOU CAN TELL JUDGE EFREMSKY IS THAT
22 THAT ISSUE, NUMBER ONE, YOUR PERSONAL LIABILITY AND WHETHER
23 YOU'RE JOINTLY AND SEVERALLY LIABLE WITH POWER VENTURES HAS NOT
24 BEEN DECIDED; AND THE FULL EXTENT OF THE DAMAGES HAS NOT BEEN
25 DECIDED YET.

1 SO I DON'T KNOW IF THAT'S A GRANT OR A DENIAL OF YOUR
2 MOTION, BUT THAT'S THE CLARIFICATION. OKAY? SO I'M GOING TO
3 TAKE --

4 MR. VACHANI: I'LL TAKE THAT AS A CLEAR INDICATION
5 AND PASS THAT, THOSE WORDS ON TO HIM.

6 THE COURT: OKAY. AND I'M -- I'M PLANNING TO ISSUE A
7 CASE MANAGEMENT ORDER WHERE I'LL SET -- I'LL MAKE THAT
8 STATEMENT IN THE ORDER IN CASE YOU NEED A DOCUMENT TO PRESENT
9 TO JUDGE EFREMSKY. OKAY?

10 MR. VACHANI: OKAY.

11 THE COURT: ALL RIGHT. NOW, WHAT I WOULD LIKE TO
12 DO -- OR MAYBE THAT'S A GRANT INSTEAD OF A -- I'M JUST GOING
13 TO -- I'LL JUST DENY IT AS MOOT, OKAY?

14 NOW, WHAT I WOULD LIKE TO DO IS -- LET ME DO SOME OTHERS.

15 WITH REGARD TO THE ISSUE OF THE 28,000 IN FEES AND COSTS
16 FOR THE POWER VENTURES 30(B)(6) DEPOSITION, I'D LIKE YOU TO
17 FILE THAT MOTION WITH JUDGE SPERO. SINCE HE'S THE ONE THAT HAD
18 ORDERED THE REIMBURSEMENT OF FEES AND COSTS, I THINK IT IS MORE
19 APPROPRIATELY BEFORE HIM. SO IF YOU WOULD PLEASE FILE THAT
20 WITH JUDGE SPERO.

21 NOW, LET'S HANDLE THE ISSUE OF POWER VENTURES. THE
22 CLERK'S OFFICE, BECAUSE THE BANKRUPTCY STAY WAS IN EFFECT, JUST
23 AUTOMATICALLY TERMINATED THE FACEBOOK MOTION FOR DEFAULT
24 JUDGMENT AND POWER VENTURES' MOTION TO SET ASIDE DEFAULT.

25 LET ME TELL YOU WHAT MY TENTATIVE THOUGHTS ARE ON THIS AND

1 THEN I'LL GIVE YOU AN OPPORTUNITY TO RESPOND.

2 I UNDERSTAND FACEBOOK'S FRUSTRATION WITH WHAT MAY APPEAR
3 TO BE SOME DELAY AND MANIPULATION OF PROCEEDINGS TO AVOID
4 LIABILITY.

5 ON THE OTHER HAND, POWER VENTURES DID NOT HAVE COUNSEL ON
6 AUGUST 6TH, 2012 AT JUDGE WARE'S ORDER TO SHOW CAUSE HEARING
7 AND AT THE TIME THAT JUDGE WARE ENTERED THE DEFAULT BACK ON
8 AUGUST 8TH OF 2012, BUT THEY DID HIRE NEW COUNSEL TO FILE THE
9 MOTION TO SET ASIDE DEFAULT BY AUGUST 23RD, SO IT'S SORT OF
10 ROUGHLY LESS THAN TWO WEEKS.

11 I, FRANKLY, THINK THAT IF THIS WERE TO GO UP TO THE NINTH
12 CIRCUIT, I THINK THE NINTH CIRCUIT WOULD BE SOMEWHAT LENIENT
13 AND ALLOW -- OBVIOUSLY THE LAPSE IN COUNSEL WAS LONGER THAN
14 THOSE TWO WEEKS, BUT I STILL THINK THAT PERHAPS THE CIRCUIT
15 WOULD REQUIRE A LOWER COURT, LIKE THIS ONE, TO MAYBE OVERLOOK
16 THAT PERIOD OF LACK OF COUNSEL.

17 NOW, SHOULD POWER VENTURES DO THAT AGAIN, THEN I FEEL
18 COMPLETELY WITH AUTHORITY TO JUST GRANT A DEFAULT, A DEFAULT
19 JUDGMENT -- I DON'T CARE IF THEY COME BACK THE NEXT DAY WITH A
20 LAWYER -- BECAUSE THEN THEY'RE REALLY GAMING THE SYSTEM AND I
21 WOULD FEEL, ON APPEAL, THAT I WOULD HAVE A RECORD.

22 BUT ON THIS RECORD, AND MAYBE IT'S JUST BECAUSE I'M NEW TO
23 THE CASE AND I DON'T UNDERSTAND THE FULL EXTENT OF ANY
24 GAMESMANSHP THAT OCCURRED, I WOULD BE INCLINED TO SET ASIDE
25 THE DEFAULT AND TO DENY YOUR MOTION FOR DEFAULT JUDGMENT, TO

1 SET A HEARING DATE ON THE INITIAL -- THE ORIGINAL ISSUES THAT
2 JUDGE WERE IDENTIFIED, SET A HEARING DATE FOR THAT.

3 SO LET ME GIVE YOU A CHANCE TO RESPOND TO THAT.

4 MR. CHATTERJEE: SURE, YOUR HONOR.

5 SO, YOU KNOW, I THINK IN A LOT OF CIRCUMSTANCES I PROBABLY
6 WOULD JUST HAVE AGREED WITH YOU AND WE WOULDN'T HAVE MOVED AS
7 AGGRESSIVELY AS WE DID.

8 THE COURT: UM-HUM.

9 MR. CHATTERJEE: BUT TO BE CANDID, THIS CASE HAS BEEN
10 A CONTINUAL SOURCE OF PROCEDURAL FRUSTRATION FOR US BECAUSE OF
11 THE GAMES MR. VACHANI HAS PLAYED.

12 I DON'T KNOW MY OPPOSING COUNSEL NOW, SO I HAVE NO OPINION
13 ONE WAY OR THE OTHER. I'M SURE SHE'S PERFECTLY QUALIFIED, AND
14 BY ALL REPORTS SHE'S A VERY NICE PERSON, AN EASY ONE TO GET
15 ALONG WITH.

16 THE COURT: UM-HUM.

17 MR. CHATTERJEE: BUT THIS IS A DIFFERENT CASE THAN
18 YOUR TYPICAL DEFAULT JUDGMENT CASE WHERE, YOU KNOW, YOU HAVE
19 SOMEBODY COME IN UNDER A COMPANY NAME EARLY ON AND THEY DON'T
20 KNOW WHAT THEY'RE DOING.

21 THE COURT: UM-HUM.

22 MR. CHATTERJEE: HERE WE HAVE ACTIVITY AFTER ACTIVITY
23 AFTER ACTIVITY IN THE CASE WHERE MR. VACHANI, AND POWER
24 VENTURES, JUST DON'T FOLLOW THE RULES.

25 THE VERY FIRST THING YOU TALKED ABOUT WAS A SANCTIONS ORDER

1 ON A 30(B)(6) DEPOSITION. I MEAN, THAT'S -- EVEN THAT'S
2 UNUSUAL. YOU KNOW, MR. VACHANI JUST CHOOSES NOT TO FOLLOW THE
3 LEGAL PROCESS HERE.

4 YOU'LL SEE IN OUR BRIEFING, ON THE SUPPLEMENTAL BRIEFING ON
5 THE TWO ISSUES, WHEN WE SERVED DOCUMENT REQUESTS FOR VERY
6 IMPORTANT, CRITICAL DOCUMENTS IN THE CASE, HE DESTROYED THEM.

7 THIS IS NOT A CASE OF A TYPICAL DEFAULT JUDGMENT WHERE
8 SOMEONE JUST BLEW A DEADLINE BY ACCIDENT.

9 THIS IS SOMETHING WHERE WE'RE AT THE VERY END OF A CASE;
10 MR. VACHANI KNOWS HOW THIS IS GOING; THERE'S, YOU KNOW, SOME
11 VERY UNFAVORABLE RULINGS; AND EVERY STEP ALONG THE WAY HE HAS
12 ERECTED PROCEDURAL ROADBLOCKS THAT WE HAVE HAD TO DEAL WITH AND
13 THEN OVERCOME, AND WE HAVE OVERCOME THEM.

14 THE COURT: UM-HUM.

15 MR. CHATTERJEE: AND SO, YOU KNOW, THIS DOES STRIKE
16 AS A DIFFERENT CASE WHERE, IN YOUR HONOR'S DISCRETION, YOU CAN
17 LOOK AT THE HISTORY OF THIS CASE AND ENTER A DEFAULT JUDGMENT
18 GIVEN THE PATTERN OF ACTIVITY THAT MR. VACHANI AND POWER
19 VENTURES HAVE CHOSEN TO FOLLOW.

20 THE COURT: UM-HUM.

21 MR. CHATTERJEE: I TOTALLY WOULD AGREE WITH YOU IF WE
22 WERE AT THE BEGINNING, OR EVEN THE MIDDLE OF THE CASE --

23 THE COURT: UM-HUM.

24 MR. CHATTERJEE: -- WHERE NOTHING ELSE HAD HAPPENED
25 AND WE DIDN'T HAVE THE HISTORY --

1 THE COURT: UM-HUM.

2 MR. CHATTERJEE: -- IF YOUR HONOR WOULD SAY, "LOOK,
3 IT WAS JUST A COUPLE WEEKS, IT WAS ONE INSTANCE, I'M GOING TO
4 OVERLOOK IT." BUT THAT ISN'T THIS CASE.

5 THE COURT: YEAH. WELL, LET ME ASK YOU, MY -- MY
6 CONCERN IS THAT FROM WHAT I CAN TELL OF THE RECORD, THE RECORD
7 FOR THE DEFAULT ENTRY IS LACK OF COUNSEL AND ALL OF THE OTHER
8 ABUSES, MANIPULATION, GAMESMANSHIP WAS NOT PART OF THAT
9 DETERMINATION.

10 SO IF IT WERE TO GO DIRECTLY UP ON APPEAL FOR THE DEFAULT
11 DEFAULT JUDGMENT, THE CIRCUIT WOULD ONLY BE LOOKING AT THAT ONE
12 ISSUE OF LACK OF COUNSEL, RIGHT? BECAUSE I DON'T THINK THAT
13 JUDGE WARE'S ORDER TO SHOW CAUSE SORT OF LAID OUT ALL OF THE
14 OTHER PAST ABUSES THAT WOULD PERHAPS JUSTIFY SUCH AN AWARD.
15 DOES THAT MAKE SENSE?

16 MR. CHATTERJEE: BUT, YOUR HONOR, IT IS IN OUR
17 BRIEFING THAT WE SUBMITTED, AND IT IS PART OF THE RECORD IN THE
18 PAPERS THAT WE FILED, INCLUDING THE ONES WHERE THEY FILED A
19 MOTION TO SET ASIDE THE DEFAULT.

20 THE COURT: UM-HUM.

21 MR. CHATTERJEE: AND SO, YOU KNOW, THIS PATTERN OF
22 ACTIVITY IS -- I MEAN, IT IS VERY MUCH PART OF THE CASE AND
23 PART OF THE MOTION.

24 YOU'RE RIGHT THAT JUDGE WARE ISSUED AN ORDER TO SHOW CAUSE.

25 THE COURT: UM-HUM.

1 MR. CHATTERJEE: BUT IT WAS BECAUSE WE SHOWED UP IN
2 COURT, MR. VACHANI WASN'T THERE IF MY MEMORY SERVES -- IT'S
3 BEEN A WHILE --

4 THE COURT: A WHILE, YEAH.

5 MR. CHATTERJEE: -- AND HE ISSUES THE ORDER TO SHOW
6 CAUSE, AND THEN AFTER THAT HAPPENS, HE BELATEDLY HIRES COUNSEL
7 AND THEY MOVE TO SET ASIDE.

8 THE COURT: UM-HUM.

9 MR. CHATTERJEE: MY RECOLLECTION IS WE CROSS-MOVED ON
10 THAT. AND WE DID KIND OF DOCUMENT THIS, THIS HISTORY OF ALL
11 THE ACTIVITIES IN THE CASE.

12 THE COURT: UM-HUM.

13 MR. CHATTERJEE: AND AS I SAID, I UNDERSTAND YOUR
14 HONOR'S VIEW THAT THERE MAY BE SOME INDICATIONS OF
15 MANIPULATION. WE OBVIOUSLY FEEL MUCH MORE STRONGLY ABOUT THAT,
16 PARTICULARLY THE TIMING OF IT --

17 THE COURT: UM-HUM.

18 MR. CHATTERJEE: -- AT THE TIME OF JUDGE WARE
19 RETIRING.

20 THE COURT: WELL, I'M OBVIOUSLY NOT, YOU KNOW,
21 FAMILIAR WITH THE FULL RECORD AND THE HISTORY OF A CASE THAT'S
22 BEEN PENDING SINCE 2008.

23 BUT YOU SEE MY CONCERN, RIGHT, MR. CHATTERJEE? IF THIS
24 GOES UP, IT WILL GO UP JUST ON THE OSC AND THE LACK OF COUNSEL
25 AND I JUST HAVE SOME CONCERNS THAT ULTIMATELY IT -- I MEAN, I

1 DON'T KNOW. DO YOU EVEN ANTICIPATE THAT THERE ARE ANY ASSETS
2 HERE TO BE GOTTEN? OR IS IT -- LET ME ASK THAT POINT. IS
3 THERE --

4 MR. CHATTERJEE: I'LL BE CANDID WITH YOUR HONOR. THE
5 FINAL RESULT WE'RE LOOKING FOR IS WE DO WANT, YOU KNOW, A
6 SIGNIFICANT JUDGMENT --

7 THE COURT: YES.

8 MR. CHATTERJEE: -- NOT ONLY FOR THIS CASE, BUT
9 BECAUSE THIS IS A PERSISTENT ISSUE WHICH APPLIES.

10 THE COURT: SURE.

11 MR. CHATTERJEE: BUT WE ALSO WANT AN INJUNCTION
12 AGAINST POWER VENTURES AND MR. VACHANI. WE WANT HIM TO NOT
13 HACK INTO OUR SYSTEM AGAIN AND HIS COMPANY NOT TO DO THAT.

14 THE COURT: UM-HUM.

15 MR. CHATTERJEE: AND AT THE END OF THE DAY, YOU KNOW,
16 THAT'S WHAT I'M GOING TO BE SAYING HERE IS THE WAY THAT WE
17 DEFINE FINALITY IN THIS CASE.

18 THE COURT: UM-HUM.

19 MR. CHATTERJEE: AND, YOU KNOW, FROM OUR PERSPECTIVE,
20 THAT'S THE GOAL AND THERE'S JUST CONSTANT ROADBLOCKS THROWN UP
21 TO GET IN THE WAY.

22 THE COURT: UM-HUM.

23 MR. CHATTERJEE: THERE'S NOT REALLY ANY MYSTERY ABOUT
24 HOW THIS IS GOING TO COME OUT --

25 THE COURT: UM-HUM.

1 MR. CHATTERJEE: -- FOLLOWING JUDGE WARE'S RULING.

2 THERE MIGHT BE AN ISSUE AS TO THE DOLLAR VALUE.

3 THE COURT: UM-HUM.

4 MR. CHATTERJEE: BUT, YOU KNOW, THE ULTIMATE
5 CONCLUSION HERE, IT'S A MATTER OF WHAT'S THE RIGHT NUMBER TO
6 PICK.

7 I DON'T THINK THAT YOU NEED TO WORRY AS MUCH ABOUT THE
8 NINTH CIRCUIT AS YOUR HONOR IS SUGGESTING --

9 THE COURT: YEAH.

10 MR. CHATTERJEE: -- BECAUSE OF THE FACT THAT THERE
11 WERE THESE COMPETING MOTIONS AND THE HISTORY OF THIS CASE HAS
12 BEEN DOCUMENTED THEREIN.

13 THE COURT: UM-HUM.

14 MR. CHATTERJEE: AND IF YOUR HONOR WANTS ADDITIONAL
15 AUTHORITY ON THAT, WE'RE HAPPY TO LAY THAT OUT AND SUBMIT IT,
16 BECAUSE IT'S A PRETTY SORDID TALE OF THIS CASE.

17 THE COURT: WELL, I'M ALSO THINKING JUST IN TERMS OF
18 GENERALLY -- I DID REVIEW THE MOTION TO SET ASIDE DEFAULT AND
19 THE CROSS APPLICATION FOR A DEFAULT JUDGMENT. YOU'RE MAKING A
20 COMPELLING CASE.

21 MS. ANDERSON: YOUR HONOR, MAY I CLARIFY THE
22 CIRCUMSTANCES SURROUNDING THE DEFAULT?

23 THE COURT: GO AHEAD, PLEASE.

24 MS. ANDERSON: AS FAR AS I'M AWARE, THE THREE AND A
25 HALF YEARS OF LITIGATION UP TO THAT POINT HAD DRAINED POWER

1 VENTURES LONG BEFORE THAT POINT AND THEY WERE IN DEFAULT IN
2 THEIR PAYMENTS TO THEIR COUNSEL.

3 THE COURT: UM-HUM.

4 MS. ANDERSON: AND THEY HUNG ON THROUGH FINAL
5 BRIEFING, OR WHAT THEY ANTICIPATED TO BE FINAL BRIEFING, BEFORE
6 FILING A MOTION TO WITHDRAW, WHICH WAS GRANTED.

7 THE COURT: UM-HUM.

8 MS. ANDERSON: MY UNDERSTANDING IS THAT MR. VACHANI
9 AND POWER VENTURES WEREN'T -- EITHER WEREN'T AWARE THAT THEY
10 NEEDED TO REPLACE COUNSEL OR WEREN'T AWARE THAT THERE WAS A
11 NEED TO AT THAT POINT BECAUSE IT DID APPEAR THAT THE FINAL
12 JUDGMENT WAS IMMINENT.

13 SO WHEN THEY WERE CALLED TO EVENTUALLY SHOW CAUSE,
14 MR. VACHANI DID MAKE AN APPEARANCE AND HE DID ATTEMPT TO MAKE
15 AN APPEARANCE FOR POWER VENTURES.

16 HE SPOKE ON BEHALF OF POWER VENTURES AND HE --

17 THE COURT: WELL, HE CAN'T DO THAT.

18 MS. ANDERSON: BUT HE CAN'T DO THAT. SO IT'S UNFAIR
19 FOR JUDGE WARE TO THEN SAY -- AT LEAST, I DON'T UNDERSTAND HOW
20 THIS WORKS -- FOR JUDGE WARE TO THEN SAY HE WAS ORDERED TO SHOW
21 CAUSE FOR WHY HE HADN'T RETAINED NEW COUNSEL, BUT HE
22 TECHNICALLY COULDN'T APPEAR, SO HE COULDN'T SHOW CAUSE. HE
23 COULDN'T MAKE AN OFFER OF PROOF.

24 THE COURT: WELL, BECAUSE HE'S NOT COMPLYING WITH
25 JUDGE WARE'S ORDER. I MEAN, OUR LOCAL RULES REQUIRE THAT IF

1 YOU ARE A CORPORATION, YOU HAVE TO BE REPRESENTED BY COUNSEL.
2
3 YOU CAN'T BE REPRESENTED BY A NON-ATTORNEY, AND A NON-ATTORNEY
4
5 PRACTICING LAW IS ACTUALLY, I BELIEVE IT'S A MISDEMEANOR. IT'S
6
7 A CRIMINAL OFFENSE.

8
9 SO, I MEAN, JUDGE WARE'S JULY 2ND ORDER SPECIFICALLY WARNED
10 THE DEFENDANTS THAT FAILURE TO TIMELY FILE NOTICES OF
11 IDENTIFICATION AND SUBSTITUTION OF COUNSEL MAY RESULT IN A
12 DEFAULT OF THIS CASE. IT WAS PRETTY EXPLICIT.

13
14 MR. CHATTERJEE: I MEAN, YOUR HONOR, I HAD ACTUALLY
15
16 FORGOTTEN ABOUT THAT LAST PART OF THE LANGUAGE. I MEAN, THAT
17
18 PUTS YOU ON PRETTY SOLID GROUND IF IT GOES UP TO THE NINTH
19
20 CIRCUIT BECAUSE HE GAVE THE WARNING.

21
22 AND THE RULES ARE PRETTY CLEAR ON THIS. IT'S NOT LIKE
23
24 THERE'S AN ABSENCE OF NOTICE FOR MR. VACHANI.

25
26 MS. ANDERSON: JUDGE WARE ALSO GRANTED LEAVE TO FILE
27
28 A MOTION FOR RECONSIDERATION OF THE DEFAULT JUDGMENT, SO IT
29
30 APPEARS THAT HE FOUND THERE WERE GROUNDS FOR RECONSIDERATION ON
31
32 THE BASIS THAT COUNSEL WAS REPLACED.

33
34 MR. CHATTERJEE: I'M HAPPY TO RESPOND TO THAT IF YOU
35
36 WANT, YOUR HONOR, BUT I DON'T WANT TO DISRUPT WHAT YOU'RE
37
38 LOOKING AT.

39
40 THE COURT: WELL, I JUST SAW THE -- WHY DON'T YOU GO
41
42 AHEAD AND RESPOND TO THAT?

43
44 MR. CHATTERJEE: SO, YOUR HONOR, THE GROUNDS FOR
45
46 RECONSIDERATION ARE NEW FACTS OR NEW LAW. THAT'S THE TYPICAL

1 STANDARD IN THIS DISTRICT IN ORDER TO GET RECONSIDERATION.

2 THE COURT: UM-HUM.

3 MR. CHATTERJEE: I DON'T THINK THEY'VE IDENTIFIED ANY
4 NEW FACTS OR ANY NEW LAW.

5 THE JUDGE GAVE THEM NOTICE. THE RULES WERE WHAT THEY WERE.

6 MR. VACHANI, JUST LIKE SO MANY OTHER TIMES IN THIS CASE,
7 DECIDED NOT TO COMPLY WITH THEM, AND ONLY WHEN HE'S IN THE --
8 FOR LACK OF A BETTER WORD -- THE O.K. CORRAL DOES HE ASK FOR
9 ADDITIONAL RELIEF AND JUDGE WARE GIVES HIM SOME, BUT THERE'S
10 STILL NO NEW FACTS AND NO NEW LAW AROUND THAT DEFAULT AND
11 THERE'S NO REASON TO REVISIT WHY HE DIDN'T COMPLY, PARTICULARLY
12 GIVEN THE HISTORY OF THIS CASE.

13 MS. ANDERSON: A CORPORATION THAT WAS RUN INTO THE
14 GROUND, THAT HAS BEEN RUN INTO BANKRUPTCY, AS WELL AS THE
15 INDIVIDUAL, REQUIRED A LITTLE ADDITIONAL TIME TO SECURE COUNSEL
16 IN THIS CASE.

17 MR. CHATTERJEE: THEN HE SHOULD HAVE MOVED, YOUR
18 HONOR, AND ASKED THE COURT FOR THAT TIME.

19 MS. ANDERSON: BUT HE COULDN'T BECAUSE HE'S AN
20 INDIVIDUAL AND HE CAN'T REPRESENT THE CORPORATION. HE COULDN'T
21 SPEAK -- THE CORPORATION COULD NOT SPEAK FOR ITSELF DURING THIS
22 PERIOD.

23 MR. CHATTERJEE: HE --

24 THE COURT: ALL RIGHT. WELL, THIS IS WHAT I'M GOING
25 TO DO: I CERTAINLY HEAR WHAT YOU'RE SAYING, MR. CHATTERJEE,

1 AND I DO WANT TO PUT COUNSEL AND MR. VACHANI ON NOTICE THAT I
2 REALLY DON'T TOLERATE GAMESMANSWELL WELL AND HAVE --
3 UNFORTUNATELY, I HAVE BEEN KNOWN TO BE QUITE HARSH IF I SEE
4 THAT, SO I'M PUTTING YOU ON NOTICE THAT I'M NOT GOING TO
5 TOLERATE FURTHER ABUSES OF THE SYSTEM OR OF COURT PROCEEDINGS.

6 HAVING SAID THAT, I THINK AT THIS POINT IT WOULD BE OVERLY
7 HARSH ON THIS SOLE BASIS FOR THE DEFAULT TO NOT ALLOW POWER
8 VENTURES TO BE REPRESENTED.

9 WHAT I WOULD LIKE TO DO IS TO DENY FACEBOOK'S MOTION FOR
10 DEFAULT JUDGMENT, TO GRANT POWER VENTURES' MOTION TO SET ASIDE
11 DEFAULT, AND TO SET A HEARING DATE FOR US TO DECIDE WHAT THE
12 APPROPRIATE DAMAGES AMOUNT IS, WHETHER MR. VACHANI IS
13 PERSONALLY LIABLE, AND IF YOU WANT AN INJUNCTION, WHAT THE
14 EXACT SCOPE OF THAT RELIEF SHOULD BE.

15 AND I'D LIKE TO JUST DO THIS ON THE MERITS AND DO IT RIGHT
16 SO THAT THERE'S ONE FINAL JUDGMENT AS SOON AS POSSIBLE.

17 MY CONCERN IS THAT YOUR -- EVEN YOUR CONCERN ABOUT GETTING
18 RELIEF FROM POWER VENTURES MAY BE DELAYED IF I GO FORWARD WITH
19 THIS DEFAULT JUDGMENT, THEY TAKE IT UP ON APPEAL, IT MAY BE 23
20 MONTHS BEFORE YOU GET AN ANSWER AND WE'LL BE ALL BACK HERE
21 DOING THE SAME THING.

22 I'D LIKE TO JUST, ONCE AND FOR ALL, DECIDE THESE ISSUES ON
23 THE MERITS AND GET A FINAL RESOLUTION. IS THAT --

24 MR. CHATTERJEE: THAT'S FINE, YOUR HONOR, BUT WE'D
25 LIKE TO DO IT AS QUICKLY AS POSSIBLE.

1 THE COURT: OKAY.

2 MR. CHATTERJEE: JUST BECAUSE THIS CASE HAS BEEN
3 PENDING FOR QUITE A WHILE.

4 THE COURT: YES.

5 MR. CHATTERJEE: FRANKLY, WE GOT DERAILED FOR NINE
6 MONTHS.

7 THE COURT: YES, I UNDERSTAND, AND I APOLOGIZE ON
8 BEHALF OF THE COURT THAT --

9 MR. CHATTERJEE: IT ISN'T THE COURT'S ISSUE, YOUR
10 HONOR. IT'S BECAUSE OF THE MANEUVERS OF MR. VACHANI.

11 THE COURT: OKAY. SO LET ME GO AHEAD AND I'M ISSUING
12 THOSE RULINGS AS WELL. THEY WILL BE IN MY CASE MANAGEMENT
13 ORDER. IT'LL LIST ALL THESE ADDITIONAL RULINGS OF DENYING
14 MOTION FOR DEFAULT JUDGMENT, GRANTING MOTION TO SET ASIDE
15 DEFAULT.

16 I DO WANT TO REITERATE, THOUGH, THAT IF POWER VENTURES
17 DOESN'T HAVE COUNSEL, THEN I WILL ABSOLUTELY ENTER DEFAULT AND
18 DEFAULT JUDGMENT AND I WILL NOT GIVE YOU ANOTHER CHANCE. OKAY?
19 THIS IS THE ONE AND ONLY.

20 MS. ANDERSON: UNDERSTOOD.

21 THE COURT: SO PLEASE DON'T ABUSE THAT.

22 NOW, LET'S GO AHEAD AND SET THE DATE.

23 AND THEN ALSO LET ME, IN THE MEANTIME, ASK WHETHER IT IS
24 WORTH IT TO ORDER ANOTHER ALTERNATIVE DISPUTE RESOLUTION
25 SESSION, BECAUSE IT'S CERTAINLY BEEN SOME TIME SINCE YOU HAD

1 THE LAST ONE, AND WHETHER YOU WOULD LIKE TO GO BACK TO
2 MS. DURIE, WHO IS A VERY, VERY CAPABLE ATTORNEY, OR IF YOU WANT
3 TO GO TO A JUDGE TO BE YOUR NEUTRAL. WHAT WOULD YOU LIKE TO
4 DO? I'D LIKE TO HAVE YOU AT LEAST EXPLORE THIS OPTION SINCE
5 IT'S BEEN SO LONG SINCE YOUR LAST ATTEMPT.

6 MR. CHATTERJEE: SO, YOUR HONOR, THERE HAVE BEEN
7 EFFORTS TO TRY AND SETTLE THIS CASE INDEPENDENT OF THIS. I
8 THINK, FROM FACEBOOK'S PERSPECTIVE, THE ANSWER IS WE FEEL
9 EXHAUSTED ON THAT FRONT.

10 THE COURT: OKAY.

11 MR. CHATTERJEE: WE'VE DONE EVERYTHING WE CAN TO TRY
12 AND REACH RESOLUTION.

13 THE COURT: OKAY.

14 MR. CHATTERJEE: AND NOW I THINK WE NEED TO TAKE IT
15 TO THE END.

16 THE COURT: OKAY. THAT'S FINE. I'M NOT GOING TO
17 FORCE THAT. OKAY.

18 WELL, THEN YOU'RE NOT GOING TO LIKE THE DATE THAT I WAS
19 GOING TO OFFER YOU. I WAS GOING TO OFFER YOU SEPTEMBER 26TH
20 FOR THE HEARING ON PERSONAL LIABILITY DAMAGES. I DON'T BELIEVE
21 INJUNCTIVE RELIEF HAS BEEN BRIEFED.

22 MR. CHATTERJEE: IT HAS NOT BEEN BRIEFED, AND THE
23 REASON THAT WE DIDN'T, YOUR HONOR, IS THE SUMMARY JUDGMENT
24 MOTION WAS NOT SO MUCH ON REMEDIES OTHER THAN THE DAMAGES.

25 THE COURT: UM-HUM.

1 MR. CHATTERJEE: WE ASSUMED THAT WOULD BE
2 POST-RESOLUTION OF THIS ISSUE, THAT THERE WOULD BE BRIEFING ON
3 ATTORNEYS' FEES, INJUNCTIVE RELIEF AND THINGS LIKE THAT.

4 THE COURT: OKAY.

5 MR. CHATTERJEE: AND THAT'S WHY IT HAS NOT YET BEEN
6 BRIEFED.

7 I WOULD LIKE TO TRY AND KEEP THE PAPERS THE WAY THEY ARE AS
8 FAR AS WHAT'S BEEN SUBMITTED TO THE COURT AND MINIMIZE EXPENSE
9 ON ADDITIONAL BRIEFING --

10 THE COURT: SURE.

11 MR. CHATTERJEE: -- SINCE THERE'S ALREADY A SET
12 RECORD.

13 THE COURT: THAT'S FINE.

14 MR. CHATTERJEE: BUT IF WE HAVE ADDITIONAL ISSUES
15 WE'VE GOT TO RAISE ON INJUNCTIVE RELIEF OR ATTORNEYS' FEES FOR
16 THE CASE, THAT'S A SEPARATE ISSUE.

17 THE COURT: SO YOU WANT THE RULING ON INJUNCTIVE
18 RELIEF AND ATTORNEYS' FEES TO BE AFTER THE RULING ON PERSONAL
19 LIABILITY AND DAMAGES?

20 MR. CHATTERJEE: IF WE'RE GOING TO HAVE A HEARING ON
21 SEPTEMBER 26TH AND IT'S THAT FAR OUT, IT PROBABLY MAKE SENSE TO
22 DO IT ALL TOGETHER.

23 THE COURT: LET'S DO IT ALL TOGETHER, BECAUSE I WOULD
24 SUSPECT THAT MOST OF THE UNDERLYING MERITS OF ALL OF THEM ARE
25 GOING TO BE OVERLAPPING.

1 MR. CHATTERJEE: RIGHT, YOUR HONOR.

2 THE COURT: OKAY.

3 MR. CHATTERJEE: AND FROM OUR PERSPECTIVE, JUDGE WARE
4 HAD DEEMED THE PAPERS AS SUBMITTED.

5 THE COURT: OKAY.

6 MR. CHATTERJEE: IF IT EXPEDITES THINGS, WE ARE FINE
7 TO LEAVE IT SUBMITTED AND YOUR HONOR CAN CALL A HEARING IF
8 NECESSARY --

9 THE COURT: OKAY.

10 MR. CHATTERJEE: -- AS TO THE ISSUES BEFORE YOUR
11 HONOR.

12 THE COURT: OKAY.

13 MR. CHATTERJEE: BUT IF YOU DO WANT TO HAVE A HEARING
14 AND IT GETS PUSHED OUT -- AND THE REASON FOR THAT, QUITE
15 FRANKLY, IS WE WANT TO HAVE THIS CASE COME TO AN END.

16 THE COURT: SURE. I UNDERSTAND, AND I UNDERSTAND
17 YOUR FRUSTRATION.

18 MR. CHATTERJEE: BUT I UNDERSTAND THE COURT'S NEED TO
19 BE EDUCATED ABOUT THIS CASE, TOO.

20 AND SO, YOU KNOW, IF THE EARLIEST WE CAN GET IS
21 SEPTEMBER 26TH, WE'LL TAKE IT.

22 IF NOT, WE WOULD LIKE TO, YOU KNOW, POTENTIALLY CONSIDER
23 HAVING IT SUBMITTED.

24 THE COURT: WELL, IT'S NOT JUST FOR THE PURPOSES OF
25 THE HEARING. IT'S ALSO JUST MANAGING THE WORK FLOW AND SPACING

1 OUT THE WORK FLOW, UNFORTUNATELY. SO WHETHER I NEED A HEARING
2 OR NOT, THAT IS THE BEST DATE IN WHICH CHAMBERS RESOURCES CAN
3 BE DEVOTED TO GETTING A FINAL RESOLUTION ON THIS. SO I
4 APOLOGIZE THAT IT'S SO FAR OUT.

5 NOW, I DO THINK WE SHOULD HAVE SOME BRIEFING ON INJUNCTIVE
6 RELIEF AND ATTORNEYS' FEES, SO WHY DON'T YOU MAKE A SUGGESTION
7 AS TO WHAT THAT SHOULD BE?

8 MR. CHATTERJEE: HOW FAR IN ADVANCE DOES YOUR HONOR
9 WANT TO HAVE THE PAPERS SUBMITTED?

10 THE COURT: I WOULD LIKE THE LAST WORD TO BE AT LEAST
11 THREE WEEKS BEFORE THE HEARING, SO AT LEAST BY SEPTEMBER 5.

12 MR. CHATTERJEE: SEPTEMBER 5.

13 THE COURT: THE LAST WORD. I DON'T KNOW IF THERE'S
14 GOING TO BE, YOU KNOW, MOVING PAPER, OPPOSITION, REPLY. IF
15 THAT'S THE CASE, I WANT THE REPLY FILED NO LATER THAN
16 SEPTEMBER 5TH. I'D EVEN TAKE IT ON AUGUST 29TH.

17 MR. CHATTERJEE: SO, YOUR HONOR, PERHAPS WE DO OUR
18 MOVING PAPERS, JUST LOOKING AT YOUR CALENDAR --

19 THE COURT: UM-HUM.

20 MR. CHATTERJEE: -- ON JULY 25TH.

21 THE COURT: OKAY.

22 MR. CHATTERJEE: WE HAVE AN OPPOSITION ON AUGUST 8TH;
23 AND THEN A REPLY ON THE 15TH.

24 THE COURT: OF AUGUST?

25 MR. CHATTERJEE: OF AUGUST.

1 THE COURT: OKAY.

2 MR. CHATTERJEE: OR WE COULD PUSH IT OUT EVEN ONE
3 WEEK FURTHER TO MAKE THE 22ND.

4 THE COURT: THAT'S FINE.

5 MR. CHATTERJEE: SO THOSE DATES, JUST SO WE MAKE SURE
6 WE HAVE A CLEAR RECORD, YOUR HONOR, AUGUST 1ST WOULD BE THE
7 MOVING PAPER; AUGUST 15TH THE OPPOSITION; AND AUGUST 22ND WOULD
8 BE THE REPLY FOR A SEPTEMBER 26TH HEARING DATE.

9 THE COURT: OKAY, WAIT. I'M SORRY. YOU SAID --

10 MR. CHATTERJEE: I'M SORRY, YOUR HONOR.

11 THE COURT: AUGUST 1ST WOULD ONLY GIVE A WEEK FOR THE
12 OPPOSITION.

13 MR. CHATTERJEE: I'M SORRY. THAT'S RIGHT. IT WOULD
14 BE AUGUST 1ST FOR THE MOVING; AUGUST 15TH FOR THE OPPOSITION;
15 AUGUST 22ND FOR THE REPLY.

16 THE COURT: OKAY. ALL RIGHT. THAT WOULD BE JUST
17 ACCORDING TO OUR CIVIL LOCAL RULES.

18 YOU HAVE NO PROBLEM WITH THAT, RIGHT?

19 MS. ANDERSON: NO PROBLEM.

20 THE COURT: OKAY. ALL RIGHT. SO THAT'S GOING TO BE
21 ON INJUNCTIVE RELIEF AND ATTORNEYS' FEES.

22 OKAY. AND I'LL GO AHEAD AND SET THE HEARING ON ALL OF
23 THESE ISSUES, PERSONAL LIABILITY OF MR. VACHANI, DAMAGES,
24 INJUNCTIVE RELIEF, ATTORNEYS' FEES SEPTEMBER 26TH OF 2013 AT
25 1:30 P.M.

1 AND MR. VACHANI, I DON'T WANT YOU TO FILE ANYTHING ELSE,
2 OKAY? THIS IS THE WAY FOR YOU TO HAVE YOUR INPUT AND I JUST
3 DON'T WANT TO KEEP SEEING THESE SERIAL MOTIONS.

4 DO YOU HEAR ME, SIR?

5 MR. VACHANI: YES, I DO, YOUR HONOR.

6 THE COURT: OKAY.

7 MR. CHATTERJEE: BUT, YOUR HONOR, COULD I JUST MAKE
8 SURE I UNDERSTAND WHAT YOU'RE SAYING?

9 THE COURT: YEAH.

10 MR. CHATTERJEE: HE SHOULD FILE AN OPPOSITION TO OUR
11 REQUEST.

12 THE COURT: YES, BUT THIS IS WHAT HE SHOULD -- HE
13 SHOULD FILE AN OPPOSITION ON AUGUST 15TH.

14 BUT I DON'T WANT A WHOLE BUNCH OF MISCELLANEOUS MOTIONS,
15 THIS AND THAT. I -- THIS IS THE ONE AVENUE IN WHICH HE WILL BE
16 HEARD.

17 MR. CHATTERJEE: THANK YOU, YOUR HONOR. I JUST --
18 WHEN YOU SAID "DON'T FILE ANYTHING ELSE," I WAS WORRIED HE
19 MIGHT MISCONSTRUE THAT.

20 THE COURT: OH, NO. YES, FILE YOUR OPPOSITION,
21 PLEASE, ON AUGUST 15TH, MR. VACHANI.

22 BUT I JUST DON'T WANT A SERIES OF THESE MISCELLANEOUS
23 MOTIONS.

24 NOW, WHAT -- SO THE BANKRUPTCY JUDGE, JUDGE EFREMSKY, HE
25 WILL NOT DETERMINE FACEBOOK'S CLAIM AMOUNT AGAINST MR. VACHANI.

1 HE WANTS THIS COURT TO DO THAT?

2 MR. CHATTERJEE: CORRECT, YOUR HONOR.

3 THE COURT: SO AM I TO ASSUME THAT THERE PROBABLY
4 WON'T BE ANY DEVELOPMENTS IN THE BANKRUPTCY COURT UNTIL AFTER
5 WE HAVE OUR HEARING AND THE RULING IN THE FALL?

6 MS. ANDERSON: CORRECT.

7 MR. CHATTERJEE: I BELIEVE THAT'S RIGHT, YOUR HONOR.

8 THE COURT: OKAY.

9 MR. VACHANI: THAT'S OBVIOUSLY A PERSONAL CONCERN,
10 BUT I UNDERSTAND, YOU KNOW, THE DATE.

11 THE COURT: I'M SORRY, MR. VACHANI. I COULD NOT HEAR
12 YOU. YOU WERE BREAKING UP AND IN AND OUT.

13 MR. VACHANI: THAT OBVIOUSLY -- THE DATE, HAVING TO
14 WAIT IS OBVIOUSLY A SIGNIFICANT ISSUE, IS A PERSONAL ISSUE, BUT
15 I DO UNDERSTAND THE DATE THAT WE HAVE.

16 THE COURT: OKAY. SO DO WE NEED TO HAVE AN INTERIM
17 CASE MANAGEMENT CONFERENCE? OR WOULD THAT NOT BE NECESSARY?

18 MR. CHATTERJEE: I DON'T THINK IT'S NECESSARY, YOUR
19 HONOR.

20 THE COURT: OKAY.

21 MR. CHATTERJEE: THE BRIEFING IS ALREADY SET AND
22 THAT'S IT.

23 THE COURT: OKAY. ALL RIGHT. IF BY ANY CHANCE WE
24 CAN ADVANCE THE DATE, WHICH I DOUBT, WE WILL TRY TO DO THAT,
25 BUT OTHERWISE WE'LL JUST KEEP IT ON THE 26TH OF SEPTEMBER.

1 WHAT ELSE? IS THERE ANYTHING ELSE THAT WE SHOULD COVER
2 TODAY?

3 MS. ANDERSON: YOUR HONOR, THERE IS ONE, ONE ISSUE
4 THAT WAS MENTIONED IN THE CASE MANAGEMENT STATEMENT BY THE
5 DEFENDANTS, AND THAT IS THAT THERE ARE SOME VERY LARGE ISSUES
6 WITH JUDGE WARE'S ANALYSES OF THE THREE CLAIMS IN THE SUMMARY
7 JUDGMENT THAT WE WOULD LIKE TO PRESENT TO THE COURT AND HAVE
8 THE COURT REVIEW.

9 THE COURT: I'VE ALREADY REVIEWED HIS ORDER. I FIND
10 IT TO BE VERY CONVINCING.

11 SO WE HAVE A VERY, VERY HIGH STANDARD FOR GRANTING -- YOU
12 HAVE TO FILE A MOTION FOR LEAVE TO FILE A MOTION FOR
13 RECONSIDERATION. YOU CAN'T JUST RIGHT OFF THE BAT FILE A
14 MOTION FOR RECONSIDERATION, AND I'M NOT GOING TO GRANT THAT
15 UNLESS YOU REALLY CAN FIND SOMETHING NEW THAT WAS NOT -- YOU
16 KNOW, THE VERY STRICT STANDARDS -- I MEANT TO BRING THOSE IN
17 WITH ME -- BUT, YOU KNOW, EITHER INTERVENING CASE LAW THAT HAS
18 COME DOWN SINCE HIS OPINION --

19 MS. ANDERSON: YOUR HONOR, THERE IS INTERVENING CASE
20 LAW.

21 THE COURT: -- OR SOME FACT THAT YOU, WITH REASONABLE
22 DILIGENCE, COULD NOT PREVIOUSLY FIND.

23 I MEAN, IT'S A VERY, VERY HIGH STANDARD AND I'M NOT LIKELY
24 TO GRANT IT, OKAY?

25 MS. ANDERSON: THERE IS NEW CASE LAW. IF WE PRESENT

1 THE MOTION FOR LEAVE TO FILE A MOTION FOR RECONSIDERATION WITH
2 THAT COMPELLING EVIDENCE, WILL YOU CONSIDER THAT?

3 THE COURT: I'LL CONSIDER IT, BUT YOUR HEARING DATE
4 WILL BE AFTER SEPTEMBER 26TH.

5 MS. ANDERSON: OKAY.

6 MR. CHATTERJEE: AND, YOUR HONOR, I DON'T THINK
7 THERE'S ANY NEW FACTS OR CASE LAW. WE'RE TRYING TO ALSO
8 MINIMIZE THE EXPENSE HERE ON THIS AND JUST GET THIS DONE.

9 THE COURT: YES.

10 MR. CHATTERJEE: I DON'T SEE ANY REASON, WITHOUT AN
11 ARTICULATION, BUT WHATEVER YOUR HONOR WANTS TO DO WE'LL LIVE
12 WITH.

13 THE COURT: WELL, I'M NOT LIKELY TO GRANT ANY LEAVE
14 TO EVEN FILE A MOTION FOR RECONSIDERATION.

15 MR. CHATTERJEE: THANK YOU, YOUR HONOR.

16 THE COURT: OKAY? WHAT ELSE? ANYTHING ELSE?

17 AND I REALLY MEAN IT AS FAR AS GAMESMANSHP WILL BE VERY
18 HARSHLY TREATED IF I SEE IT.

19 OKAY. WHAT ELSE? ANYTHING ELSE?

20 MR. CHATTERJEE: I THINK THAT'S IT, YOUR HONOR, FOR
21 US.

22 THE COURT: NO? ALL RIGHT. WELL, THANK YOU ALL.

23 MR. CHATTERJEE: THANK YOU, YOUR HONOR.

24 MS. ANDERSON: THANK YOU, YOUR HONOR.

25 (THE PROCEEDINGS IN THIS MATTER WERE CONCLUDED.)

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2
3 CERTIFICATE OF REPORTER
4
5
6

7 I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED
8 STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA,
9 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY
10 CERTIFY:

11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
13 ABOVE-ENTITLED MATTER.

14
15 *Lee-Anne Shortridge*
16

17 LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595
18 DATED: MAY 11, 2013
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